

## Message Text

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DRAFTED BY L/NEA:JROHWER/DOD/OGC:CAPT. FRUCHTER  
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NEA/ARP:FMDICKMAN  
OGC/IA - MR. HERO  
ISA/FMRA - CDR. GRUNEWALT

----- 001365

R 310013Z MAY 75  
FM SECSTATE WASHDC  
TO AMEMBASSY MANAMA

C O N F I D E N T I A L STATE 126818

E.O. 11652:GDS

TAGS: MARR, BA

SUBJECT: MIDDLE EAST FORCE: JURISDICTION IN NARCOTICS CASE  
REF: (A) MANAMA 0571 (B) MANAMA'S 595

1. REF (A) REPORTED THE ARREST OF THREE MIDDLE EAST FORCE PERSONNEL, MACK, VAUGHAN AND HUGHEN, BY BAHRAINI AUTHORITIES ON CHARGES OF USE AND POSSESSION OF HASHISH. WHILE RECOGNIZING THAT THESE OFFENSES ARE NOT AMONG THOSE LISTED IN PARAGRAPH 2A OF THE PROPOSED PROCEDURAL NOTE ON JURISDICTION THE EMBASSY EXPLAINS THAT USE AND POSSESSION IS PROHIBITED BY THE SAME BAHRAINI LAW AS PROHIBITS DRUG TRAFFICKING AND EMPHASIZES THAT THE GOB MAY CONSIDER THIS CHARGE ALSO COVERED BY THE PARAGRAPH 2A LIST OF SERIOUS OFFENSES. AS THE EMBASSY POINTS OUT, USG REFUSAL TO WAIVE JURISDICTION IN THIS CASE MAY LEAD THE GOB TO REOPEN NEGOTIATIONS ON THE PROPOSED PROCEDURAL NOTE.

2. THE DEPT AGREES THAT REOPENING OF NEGOTIATIONS SHOULD BE AVOIDED IF POSSIBLE. HOWEVER, IT WOULD BE A BAD PRE-CONFIDENTIAL

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CEDENT TO INCLUDE DRUG USE AND POSSESSION CASES WITHIN THE SCOPE OF DRUG TRAFFICKING UNDER PARAGRAPH 2A OF THE PROPOSED PROCEDURAL NOTE, AND WORSE TO CONCEDE THAT THE

OFFENSES SPECIFICALLY LISTED MAY NOT BE THE ONLY ONES COVERED. THE US NAVY DESIRES TO PROCEED ON THE CASE UNDER ITS DISCIPLINARY REGULATIONS.

3. THEREFORE, EMBASSY SHOULD DELIVER NOTE OR MAKE INFORMAL APPROACH TO GOB ALONG FOLLOWING LINES:

QTE: IT IS THE OPINION OF THE US THAT, IN THE ABSENCE OF SPECIAL CIRCUMSTANCES MAKING A CASE PARTICULARLY IMPORTANT TO THE GOVERNMENT OF BAHRAIN, THE CRIMES OF DRUG USE AND POSSESSION, AS DISTINCT FROM DEALING IN DRUGS, CAN BEST BE HANDLED WITHIN THE CRIMINAL JURISDICTION OF THE US BY MEANS OF THE NORMAL DISCIPLINARY PROCEEDINGS OF THE US NAVY. THE US THEREFORE WISHES TO RETAIN JURISDICTION IN THE CASES OF MACK, VAUGHAN AND HUGHEN, CHARGED IN BAHRAIN WITH USE AND POSSESSION OF HASHISH IN VIOLATION OF ARTICLES 1, 2, 24, AND PARAGRAPH 1 OF ARTICLE 27 OF LAW NO. 4 OF 1973 CONCERNING THE CONTROL OF TRAFFIC IN NARCOTIC DRUGS.

QTE: THE US UNDERSTANDS THE ENUMERATION OF CERTAIN SERIOUS CRIMES IN PARAGRAPH 2(A) OF THE PROPOSED NOTE ON CRIMINAL JURISDICTION TO EXCLUDE ALL OTHER CRIMES FROM THE SCOPE OF THE PARAGRAPH'S APPLICATION. THE US FURTHER UNDERSTANDS THE TERM "DRUG TRAFFICKING" IN PARAGRAPH 2(A) TO INCLUDE AS A NECESSARY ELEMENT THE PASSING OF DRUGS FROM ONE PERSON TO ANOTHER FOR AN EQUIVALENT IN GOODS OR MONEY, AND THAT THEREFORE POSSESSION OF DRUGS FOR PERSONAL USE AND USE ITSELF ARE NOT WITHIN THE TERM.

QTE: IT IS THE VIEW OF THE US THAT UNDER ARTICLE 11 OF THE AGREEMENT OF DECEMBER 23, 1971, JURISDICTION IN THESE CASES PROPERLY IS IN THE US NAVY. IT IS FURTHER THE VIEW OF THE US THAT IF THE PROPOSED EXCHANGE OF NOTES WERE IN EFFECT THESE CASES WOULD FALL WITHIN THE TERMS OF PARAGRAPH 2(B) RATHER THAN 2(A) AND THUS WOULD NORMALLY COME WITHIN THE JURISDICTION OF THE US.

QTE: THE US WILL BE HAPPY TO CONSULT WITH THE GOV -  
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ERNMENT OF BAHRAIN, IN ACCORDANCE WITH THE PROCEDURES CONTEMPLATED IN ARTICLE 11 OF THE 1971 AGREEMENT AND PARAGRAPH 2(B) OF THE PROPOSED NOTE, IF THE GOVERNMENT OF BAHRAIN STILL WISHES TO ASSERT ITS CRIMINAL JURISDICTION IN THESE CASES. END QTE.

4. REFERENCE MANAMA 0595 RECEIVED WHILE ABOVE TEXT AWAITING RELEASE. IT DOES NOT CHANGE OUR VIEW REGARDING CASE AT HAND. MINISTER BAHARNA'S REQUEST TO ADD LANGUAGE IN THE JURISDICTION ARRANGEMENT TO INCLUDE "POSSESSION AND USE" OF NARCOTICS PRESENTS A NEW COMPLICATION. INITIALLY HE SHOULD BE ADVISED THAT TIMING IS VERY BAD FOR

SUCH A SUGGESTION BECAUSE, ALTHOUGH JURISDICTIONAL ARRANGEMENTS HAVE NOT BEEN SIGNED, THEY HAVE FORMED THE WORKING BASIS FOR DETERMINING JURISDICTION IN THE LAST FEW CASES AND HIS REQUEST GOES TO THE HEART OF AN EXISTING CASE. HE MAY BE FURTHER ADVISED THAT OMISSION OF WORDS "POSSESSION AND USE" WAS DELIBERATE ON US PART BECAUSE US FELT NOT EVERY CASE OF "POSSESSION AND USE" WOULD CONSTITUTE A "SERIOUS CRIME." BECAUSE OF THE WIDE VARIATIONS POSSIBLE IN "POSSESSION AND USE" OFFENSES, THE USG CONCLUDED THAT SUCH CASES SHOULD BE INCLUDED AMONG THOSE OPEN FOR DISCUSSIONS BETWEEN THE TWO GOVERNMENTS TO DETERMINE WHICH GOVERNMENT WOULD EXERCISE JURISDICTION RATHER THAN INCLUDING THOSE OFFENSES WITHIN THE AUTOMATIC PROVISIONS OF THE ARRANGEMENT.

5. FYI: RE YOUR IMPRESSION ABOUT OTHER SOFAS, "POSSESSION AND USE" DO NOT APPEAR TO BE SUBJECT TO LOCAL JURISDICTION. END FYI. INGERSOLL

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